

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

NOTE FAMILY, INC.,

Plaintiff,

vs.

VIVENDI UNIVERSAL GAMES, INC.,

Defendant.

No. 05-126-DRH

ORDER

HERNDON, District Judge:

Pending before the Court is Defendant's Motion for Leave to Amend Motion for Summary Judgment. (Doc. 40.) As of this date, Plaintiff has not responded to the motion. Pursuant to **LOCAL RULE 7.1(g)**, the Court considers this failure an admission of the merits of the motion.¹ Thus, the Court **GRANTS** Defendant's motion. (Doc. 40) Defendant may re-file an amended motion for

¹ "A party opposing such a motion shall have **ten (10) days** after service of the motion to file a written response. Failure to file a timely response to a motion may, in the court's discretion, be considered an admission of the merits of the motion." **LOCAL RULE 7.1(g)**.

summary judgment *instante*.²

IT IS SO ORDERED.

Signed this 19th day of December, 2006.

/s/ David RHerndon
United States District Judge

² The Court notes that Defendant filed its proposed amendments (Docs. 41, 42) at the same time it filed its motion for leave to amend motion for summary judgment (Doc. 40). The proposed amendments were stricken by the Clerk's office. The Court wishes to clarify that in the future Defendant should e-mail proposed document(s) to its Chambers e-mail address at DRHpd@ilsd.uscourts.gov for review, and then Defendant will later be allowed to file the document if the motion for leave is granted. See **Section 2.10 of the CM/ECF User's Manual**.